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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,977	12/29/2005	Takehiko Tojo	283027US3PCT	3537
	7590 06/26/200 AK, MCCLELLAND 1	EXAMINER		
1940 DUKE STREET			VENKAT, JYOTHSNA A	
ALEXANDRIA, VA 22314			ART UNIT	PAPER NUMBER
			1619	
			NOTIFICATION DATE	DELIVERY MODE
			06/26/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com oblonpat@oblon.com jgardner@oblon.com

		Application No.	Applicant(s)					
Office Action Summary		10/562,977	TOJO ET AL.					
		Examiner	Art Unit					
		JYOTHSNA A. VENKAT	1619					
The MAILING DATE Period for Reply	of this communication app	ears on the cover sheet wi	th the correspondence a	ddress				
after SIX (6) MONTHS from the ma - If NO period for reply is specified at - Failure to reply within the set or ext	, FROM THE MAILING D, e under the provisions of 37 CFR 1.1 tiling date of this communication. Hove, the maximum statutory period vended period for reply will, by statute er than three months after the mailing		CATION. eply be timely filed THS from the mailing date of this of the ANDONED (35 U.S.C. § 133).					
Status								
1) Responsive to comm	unication(s) filed on 29 D	ecember 2005						
2a) This action is FINAL	· ·	action is non-final.						
'	,—		ers prosecution as to th	e merits is				
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
	Will the practice and t	in parte Quayre, 1000 C.D	. 11, 100 0.0. 210.					
Disposition of Claims								
4)⊠ Claim(s) <u>1-17</u> is/are ∣	pending in the application							
4a) Of the above clai	4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are	5) Claim(s) is/are allowed.							
6)	6) Claim(s) is/are rejected.							
7) Claim(s) is/are	e objected to.							
8)⊠ Claim(s) <u>1-17</u> are su	bject to restriction and/or	election requirement.						
Application Papers								
9)☐ The specification is o	biected to by the Examine	r						
•	•		ov the Examiner.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).								
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.								
·		animer. Note the attached	Office Action of John 1	10 102.				
Priority under 35 U.S.C. § 11	9							
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 								
Attachment(s) 1) Notice of References Cited (PTo 2) Notice of Draftsperson's Patent 3) Information Disclosure Stateme Paper No(s)/Mail Date	Drawing Review (PTO-948)	Paper No(s	ummary (PTO-413))/Mail Date nformal Patent Application 					

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DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-5 and 7-16 are, drawn to hair holder.

Group II, claim(s) 6 and 17 are drawn to a hair treating method.

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

As set forth in Rule 13.1 of the Patent Cooperation Treaty (PCT), "the international application shall relate to one invention only or to a group of inventions." Moreover, as stated in Rule 13.2 PCT, Unity of Invention is satisfied "where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art so linked as to form a single general inventive concept." The instant hair holder of Claim 1 does not present a contribution over the prior art. Claim 1 lacks novelty step. Claim 1 is anticipated by U. S. Patent 7,305, 995. See the figures for claimed hair holder and see col.3, Il 55-65 for the hair treating agent and see also claims 10-14 for hair treating agent. As a result, as currently presented, the instant claim 1 does not share a special technical feature with the method of use claims 6 and 17 and, as such, unity between the above Groups I - II is broken.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Due to complexity of the action, examiner submitted Election Requirement in writing in lieu of calling applicants' attorney.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. <u>All</u> claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper

withdrawn by the examiner before the patent issues. See MPEP § 804.01.

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restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30:1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT / Primary Examiner, Art Unit 1619